

EXHIBIT 130

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1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 Case No. 18-cv-01047 (PGG)

5 -----x

6 EIG ENERGY FUND XIV, L.P.,
7 EIG ENERGY FUND XIV-A, L.P.,
8 EIG ENERGY FUND XIV-B, L.P.,
9 EIG ENERGY FUND XIV (CAYMAN), L.P.,
10 EIG ENERGY FUND XV, L.P.,
11 EIG ENERGY FUND XV-A, L.P.
12 EIG ENERGY FUND XV-B, L.P.
13 EIG ENERGY FUND XV (CAYMAN), L.P.

Plaintiffs,

-against-

12 KEPPEL OFFSHORE & MARINE LTD.,
13 Defendant.

-----x

14
15 * * * CONFIDENTIAL * * *

16 VIRTUAL ZOOM DEPOSITION

17 AZIZ MERCHANT

18 July 2, 2021
19
20
21

22 Reported By:

23 Erica Ruggieri, CSR, RPR

24 Job No: 4662393
25

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2 engineer. After as my role as a
3 technical manager in Keppel FELS.
4 And then I return back in 2001 to
5 Keppel FELS as general manager of
6 engineering.

7 Q. How long did you have that
8 title for?

9 A. How long I had this title
10 for. I had this title for the last,
11 I can't recall it myself, for the
12 last 14 years. 14 or 15 years.

13 Q. Were you promoted to
14 executive director of engineering?

15 A. Yeah. That was basically
16 2012, 2013. I was promoted to
17 executive director of engineering.

18 Q. What is your title today?

19 A. Today I'm part of a
20 technology unit under Keppel
21 Offshore Marine called Keppel Marine
22 & Deepwater Technology where I'm the
23 executive director responsible for
24 clean energy technology and
25 autonomous solutions.

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2 Tan is the managing director of
3 Keppel FELS today; is that right?

4 A. Yes. But, okay, that also
5 what is happening is we referring to
6 Keppel FELS as a unit but is also
7 the managing director for KOM
8 Newbuild, N-E-W-B-U-I-L-D.

9 Q. When did Mr. Tan join
10 Keppel?

11 A. I don't -- that part I
12 can't remember.

13 Q. Did Mr. Tan used to report
14 to you?

15 A. Yes. When he was the
16 engineering manager, he used to
17 report to me.

18 Q. When way that?

19 A. Specifically I can't
20 remember when was the start date of
21 his reporting. It'd just be a
22 speculation at this point in time.
23 Maybe in 2006, 2007. It'd just be
24 speculation. I can't remember.

25 Q. In 2011 did Mr. Tan report

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2 to you?

3 A. Yes, in 2011 he report.

4 Q. In 2012 did he report to
5 you?

6 A. Yes.

7 Q. Do you know what title
8 Mr. Tan had during that period?

9 A. Offhand I can't remember.

10 Q. What is Mr. Tan's
11 educational background?

12 A. No, I can't -- I can't. I
13 don't know that.

14 Q. Is he an engineer?

15 A. He's an engineer. If I'm
16 not mistaken, he's a mechanical
17 engineer.

18 Q. Where was Mr. Tan employed
19 before Keppel?

20 A. I don't know that.

21 Q. In 2011 what was Mr. Tan's
22 role at Keppel?

23 A. He was the engineering
24 manager. So he was basically
25 assisting me on various technical

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2 require the cash flow during the
3 construction to be positive."

4 Do you see that?

5 A. Yes.

6 Q. What does that mean?

7 A. I do not know.

8 Q. You were a director of
9 Fernvale, correct?

10 A. Yes.

11 Q. Was Fernvale the special
12 purpose entity responsible for the
13 six semi-submersible rigs that
14 Keppel was constructing for Sete?
15 Is that right?

16 A. Not for the construction.
17 We are basically a special purpose
18 company.

19 Q. What does that mean? Well,
20 withdrawn.

21 What was Fernvale responsible
22 for that wasn't in the construction?

23 A. Basically the -- what I
24 would say is that the construction
25 of the projects and the execution

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2 A. Core values basically,
3 integrity, honesty.

4 Q. Is bribery against Keppel's
5 core values?

6 A. Yes.

7 Q. Sorry.

8 A. I mean our core values are
9 against bribery.

10 Q. Are kickbacks against
11 Keppel's core values?

12 A. Against, yes.

13 Q. Did you have any reason to
14 believe anything was happening in
15 Brazil that was against Keppel's
16 core values?

17 A. No.

18 Q. Which -- why did you tell
19 Mr. Tan that he has to -- withdrawn.

20 Why did you tell Mr. Tan that
21 he should manage the bosses along
22 the way without compromising company
23 core values?

24 A. I don't remember. I don't
25 remember.

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2 Q. The only EPC contracts that
3 Fernvale has ever had were with
4 SeteBrasil; is that right?

5 A. Yes.

6 Q. Are you aware today that
7 Fernvale paid bribes in connection
8 with the EPC contracts with
9 SeteBrasil?

10 MR. KUMAGAI: Objection to
11 form.

12 A. You said Fernvale?

13 Q. Yes.

14 A. No.

15 Q. Are you aware that Fernvale
16 paid commissions to one Zwi
17 Skornicki in connection with the EPC
18 contracts for SeteBrasil?

19 A. Not to my understanding.

20 Q. How many directors of
21 Fernvale are there?

22 A. There's two.

23 Q. You are one -- you've been
24 a director of Fernvale for a decade;
25 is that correct?

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2 A. Okay, you can say that in
3 2011, yes. 2011, 2012.

4 Q. Are you the only director
5 of Fernvale that has continuously
6 been a director for a decade?

7 A. Yes.

8 Q. And as one of the only two
9 directors of Fernvale who has been a
10 director -- withdrawn.

11 Have you been a director of
12 Fernvale for its entire existence?

13 A. I cannot recall -- I mean I
14 cannot recollect when was Fernvale
15 became a company existence. I can't
16 answer that question. I cannot
17 confirm when Fernvale was
18 incorporated as a company.

19 Q. So you have been a director
20 of Fernvale for a decade but you
21 have no recollection that Zwi
22 Skornicki was paid commissions by
23 Fernvale?

24 A. No.

25 Q. You never learned in the

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2 bribes were given?

3 A. I had no indication that
4 bribes were given as a Fernvale
5 director.

6 Q. But if others at Keppel
7 Offshore & Marine knew that bribes
8 were given then it wouldn't have
9 been ethical to sign this agreement;
10 is that right?

11 A. I cannot comment on that.
12 It'd just be speculation.

13 Q. Section 2.1 goes on to say
14 that "The subcontractor shall
15 perform and prosecute for warrants
16 consistent with good industry
17 practices."

18 Do you see that?

19 A. Yes, that's correct, yes.

20 Q. Is it a good industry
21 practice to pay bribes?

22 A. No.

23 Q. So it wouldn't be
24 consistent with good industry
25 practice if this contract was

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2 obtained by bribery; isn't that
3 right, Mr. Merchant?

4 A. If the contract is -- can
5 you repeat the question, again, Dan?

6 Q. I'll rephrase the question.
7 It wouldn't be in compliance with
8 good industry practice if Keppel had
9 obtained business from SeteBrasil
10 because of bribery; is that right?

11 A. Yes.

12 Q. Can you turn to the Bates
13 number ending in 804 to 805 of this
14 document?

15 Are you there?

16 A. Yes, Dan, I'm there.

17 Q. Do you see section 6.1 B,
18 no violation of law under Article 6,
19 Representation of the Parties?

20 A. Yes.

21 Q. And 6.1 B, "Contractor
22 represents and warrants to
23 subcontractor" -- contractor that's
24 Fernvale, right?

25 A. Yes.

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2 Keppel or any Keppel entity was
3 paying bribes; is that correct?

4 A. Yes.

5 MR. KUMAGAI: Objection to
6 form.

7 Q. Would you have signed it if
8 you knew that Fernvale or other
9 Keppel entities were paying bribes?

10 A. No.

11 Q. And one of the reasons you
12 wouldn't have signed it is because
13 this clause wouldn't be true; isn't
14 that right, Mr. Merchant?

15 MR. KUMAGAI: Objection to
16 form.

17 A. Yes.

18 MR. KETANI: I have marked
19 Plaintiffs' 72 for identification.

20 (Plaintiffs' Exhibit 72,
21 E-mail, Bates KEPPEL00281196,
22 marked for identification, as of
23 this date.)

24 Q. Let me know when you have
25 it.

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2 agreement signed by Zwi but we need
3 Aziz's signature. Once you find the
4 papers let me know because I will
5 have to ask" Zwi -- excuse me -- "I
6 will have to ask Y.Y. to let Aziz
7 know that it's okay so Aziz can
8 sign."

9 Do you see that?

10 A. Yes.

11 Q. When Mr. Chow said the
12 agency/commission agreement signed
13 by Zwi, do you understand that those
14 are Plaintiffs' Exhibit 74 and 75
15 that I just showed you?

16 A. Yes.

17 Q. And Mr. Chow wrote that
18 they need Aziz's signature. That's
19 you, sir?

20 A. I mean Aziz is me
21 basically, yes.

22 Q. Why would Jeff Chow need
23 your signature for these agency
24 agreements?

25 A. I do not know.

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2 SeteBrasil; is that right?

3 A. Yeah, based on information
4 you presented.

5 Q. Is it fair to say that this
6 is a presentation about the progress
7 of the SeteBrasil rigs that Keppel
8 was constructing?

9 A. Dan, I can't comment on
10 this because I can't remember on the
11 reliability of the information that
12 you are presenting to me now.

13 Q. Looking at this chart does
14 this show that the overall progress
15 on the Urca drilling rig was ahead
16 of schedule?

17 A. I mean based on this
18 information that you are presenting
19 based on what was presented yes.
20 You can plan the actual.

21 Q. And based on this chart is
22 on track for on time delivery?

23 A. Yes, based on this
24 information that you are presenting,
25 yes.